

## § 143.14

conversion or through merger or consolidation. The extent of the grandfathered rights of a Federal savings association that disappeared prior to the effective date of this section shall be determined exclusively pursuant to this section.

(c) This section shall not be construed to prevent the exercise by a Federal savings association enjoying grandfathered rights hereunder of authority that is available under the applicable state law only upon the occurrence of specific preconditions, such as the attainment of a particular future date or specified level of regulatory capital, which have not occurred at the time of conversion from a state mutual savings bank, provided they occur thereafter.

(d) This section shall not be construed to permit the exercise of any particular authority on a more liberal basis than is allowable under the most liberal construction of either state or Federal law or regulation.

### § 143.14 Continuity of existence.

The corporate existence of an association converting under this part shall continue in its successor. Each savings or demand accountholder shall receive a savings account or accounts in the converted association equal in amount to the value of accounts held in the former association.

## PART 144—FEDERAL MUTUAL SAVINGS ASSOCIATIONS—CHARTER AND BYLAWS

### CHARTER

Sec.

- 144.1 Federal mutual charter.
- 144.2 Charter amendments.
- 144.4 Issuance of charter.

### BYLAWS

- 144.5 Federal mutual savings association bylaws.
- 144.6 Effect of subsequent charter or bylaw change.

### AVAILABILITY

- 144.7 In association offices.
- 144.8 Communication between members of a Federal mutual savings association.

AUTHORITY: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901 *et seq.*, 5412(b)(2)(B).

## 12 CFR Ch. I (1–14 Edition)

SOURCE: 76 FR 48995, Aug. 9, 2011, unless otherwise noted.

### CHARTER

#### § 144.1 Federal mutual charter.

A Federal mutual savings association shall have a charter in the following form, which may include any of the additional provisions set forth in § 144.2 of this part, if such provisions are specifically requested. A charter for a Federal mutual savings bank shall substitute the term “savings bank” for “association.” The term “trustee” may be substituted for the term “director.” Associations adopting this charter with existing borrower members must grandfather those borrower members who were members as of the date of issuance of the new charter by the OCC. Such borrowers shall have one vote for the period of time such borrowings are in existence.

#### Federal Mutual Charter

*Section 1. Corporate title.* The full corporate title of the Federal savings association is \_\_\_\_\_.

*Section 2. Office.* The home office shall be located in \_\_\_\_\_ [city, state].

*Section 3. Duration.* The duration of the association is perpetual.

*Section 4. Purpose and powers.* The purpose of the association is to pursue any or all of the lawful objectives of a Federal mutual savings association chartered under section 5 of the Home Owners’ Loan Act and to exercise all the express, implied, and incidental powers conferred thereby and by all acts amendatory thereof and supplemental thereto, subject to the Constitution and laws of the United States as they are now in effect, or as they may hereafter be amended, and subject to all lawful and applicable rules, regulations, and orders of the Office of the Comptroller of the Currency (“OCC”).

*Section 5. Capital.* The association may raise capital by accepting payments on savings and demand accounts and by any other means authorized by the OCC.

*Section 6. Members.* All holders of the association’s savings, demand, or other authorized accounts are members of the association. In the consideration of all questions requiring action by the

## Comptroller of the Currency, Treasury

## § 144.2

members of the association, each holder of an account shall be permitted to cast one vote for each \$100, or fraction thereof, of the withdrawal value of the member's account. No member, however, shall cast more than 1000 votes. All accounts shall be nonassessable.

*Section 7. Directors.* The association shall be under the direction of a board of directors. The authorized number of directors shall not be fewer than five nor more than fifteen persons, as fixed in the association's bylaws, except that the number of directors may be decreased to a number less than five or increased to a number greater than fifteen with the prior approval of the OCC.

*Section 8. Capital, surplus, and distribution of earnings.* The association shall maintain for the purpose of meeting losses the amount of capital required by section 5 of the Home Owners' Loan Act and by regulations of the OCC. The association shall distribute net earnings on its accounts on such basis and in accordance with such terms and conditions as may from time to time be authorized by the OCC: *Provided*, That the association may establish minimum-balance requirements for accounts to be eligible for distribution of earnings.

All holders of accounts of the association shall be entitled to equal distribution of assets, *pro rata* to the value of their accounts, in the event of voluntary or involuntary liquidation, dissolution, or winding up of the association. Moreover, in any such event, or in any other situation in which the priority of such accounts is in controversy, all such accounts shall, to the extent of their withdrawal value, be debts of the association having the same priority as the claims of general creditors of the association not having priority (other than any priority arising or resulting from consensual subordination) over other general creditors of the association.

*Section 9. Amendment of charter.* Adoption of any preapproved charter amendment shall be effective after such preapproved amendment has been approved by the members at a legal meeting. Any other amendment, addition, change, or repeal of this charter must be approved by the OCC prior to ap-

proval by the members at a legal meeting, and shall be effective upon filing with the OCC in accordance with regulatory procedures.

Attest: \_\_\_\_\_

Secretary of the Association

By: \_\_\_\_\_

President or Chief Executive Officer of the Association

Attest: \_\_\_\_\_

Deputy Comptroller for Licensing

By: \_\_\_\_\_

Comptroller of the Currency

Effective Date: \_\_\_\_\_

### § 144.2 Charter amendments.

(a) *General.* In order to adopt a charter amendment, a Federal mutual savings association must comply with the following requirements:

(1) *Board of directors approval.* The board of directors of the association must adopt a resolution proposing the charter amendment that states the text of such amendment;

(2) *Form of filing—(i) Application requirement.* If the proposed charter amendment would: render more difficult or discourage a merger, proxy contest, the assumption of control by a mutual account holder of the association, or the removal of incumbent management; or involve a significant issue of law or policy; then, the association shall file the proposed amendment and obtain the prior approval of the OCC.

(ii) *Notice requirement.* If the proposed charter amendment does not involve a provision that would be covered by paragraph (a)(2)(i) of this section and is permissible under all applicable laws, rules and regulations, then the association shall submit the proposed amendment to the appropriate OCC licensing office, at least 30 days prior to the effective date of the proposed charter amendment.

(b) *Approval.* Any charter amendment filed pursuant to paragraph (a)(2)(ii) of this section shall automatically be approved 30 days from the date of filing of such amendment, provided that the association follows the requirements of its charter in adopting such amendment. This automatic approval does not apply if, prior to the expiration of such 30-day period, the OCC notifies the association that such amendment